



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Austral Apparel Corp.

File: B-230913

Date: April 5, 1988

DIGEST

Protest from small business bidder that agency should delay making award until protester obtains necessary line of credit does not present valid basis for protest since before agency can reject protester on responsibility grounds it must refer matter to Small Business Administration (SBA); since SBA has statutory authority to determine bidder's responsibility in such circumstances, General Accounting Office generally does not consider a protest that the small business bidder improperly was found nonresponsible.

DECISION

Austral Apparel Corporation protests the anticipated failure of the Defense Personnel Support Center, Defense Logistics Agency, to award it a contract under invitation for bids No. DLA100-88-B-0727. Austral states that it is one of three low bidders in line for award, that it is in the process of arranging financing necessary for contract performance, but that it has been advised that the agency will not delay making award until the date Austral expects to be given the needed line of credit. Austral urges that the agency should delay the award until Austral obtains the line of credit.

We understand that Austral is a small business. Before the agency can reject Austral because of a lack of credit and make award to another bidder, it must refer the matter to the Small Business Administration (SBA) because concern about contract financing involves bidder responsibility and under the law a contracting officer cannot reject a small business bidder on responsibility grounds without referring the matter to the SBA. See 15 U.S.C. § 637(b)(7) (1982). Since the SBA has the statutory authority to conclusively determine the responsibility of a small business bidder when a contracting officer believes the bidder is not responsible, this Office generally does not consider protests from

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small business bidders against a determination that the bidder is nonresponsible. See, e.g., Carolina Parachute Corp., B-226504.2, July 24, 1987, 87-2 CPD ¶ 79.

Accordingly, it does not appear that Austral has presented a valid basis for protest. Therefore, the protest is dismissed pursuant to section 21.3(m) of our Bid Protest Regulations, 52 Fed. Reg. 46445, 46448 (1987).



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